

AMENDMENTS TO LB 673

1                   1. Strike the original sections and insert the following  
2 new sections:

3                   "Section 1. Sections 1 to 13 of this act shall be known  
4 and may be cited as the Black-Tailed Prairie Dog Management Act.

5                   Sec. 2. For purposes of the Black-Tailed Prairie Dog  
6 Management Act:

7                   (1) Colony means the series of burrows and tunnels  
8 created by the black-tailed prairie dog where black-tailed prairie  
9 dogs live;

10                  (2) County board means the county board of commissioners  
11 or supervisors of a county that has adopted the act;

12                  (3) Director means the Director of Agriculture or his or  
13 her designated representative;

14                  (4) Managed colony means a colony that is confined to  
15 land owned by one person; and

16                  (5) Person means any individual, partnership, firm,  
17 limited liability company, corporation, company, society, or  
18 association, the state or any department, agency, or political  
19 subdivision thereof, the federal government, or any other public or  
20 private entity.

21                  Sec. 3. A county may adopt by resolution and carry out a  
22 coordinated program for the management of black-tailed prairie dogs  
23 on property within the county consistent with the Black-Tailed  
24 Prairie Dog Management Act and rules and regulations adopted and

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 promulgated by the director. When a county adopts such a  
2 resolution, the county shall assume the authority and duties  
3 provided in the act and the provisions of the act shall be  
4 applicable to persons owning or controlling property within the  
5 county.

6           Sec. 4. It is the duty of each person who owns or  
7 controls property within a county that has adopted a coordinated  
8 program for the management of black-tailed prairie dogs under  
9 section 3 of this act to effectively manage black-tailed prairie  
10 dog colonies present upon his or her property to prevent the  
11 expansion of colonies to adjacent property.

12           Sec. 5. A county board of a county that has adopted a  
13 coordinated program for the management of black-tailed prairie dogs  
14 under section 3 of this act may:

15           (1) Employ personnel and expend funds for the purchase of  
16 materials, machinery, and equipment to carry out its duties and  
17 responsibilities under the Black-Tailed Prairie Dog Management Act;

18           (2) Cooperate and coordinate with the Animal and Plant  
19 Health Inspection Service of the United States Department of  
20 Agriculture, the National Forest Service, the United States Fish  
21 and Wildlife Service, the Game and Parks Commission, and other  
22 local, state, and national agencies and organizations, public or  
23 private, to develop a coordinated program for the control and  
24 management of black-tailed prairie dogs and to carry out its duties  
25 and responsibilities under the act;

26           (3) Issue general and individual notices as provided in  
27 section 6 of this act for the management of black-tailed prairie

1 dog colonies;

2 (4) Examine property within the county for the purpose of  
3 determining the location of black-tailed prairie dog colonies; and

4 (5) Request and receive funds from the Animal Damage  
5 Control Cash Fund pursuant to section 11 of this act and section  
6 81-2,237.

7 Sec. 6. (1) (a) Notices for management of black-tailed  
8 prairie dog colonies shall consist of two kinds: General notices,  
9 as prescribed by rules and regulations adopted and promulgated by  
10 the director, which notices shall be on a form prescribed by the  
11 director; and individual notices, which notices shall be on a form  
12 prescribed by this section. Failure to publish general notices or  
13 to serve individual notices as provided in this section shall not  
14 relieve any person from the necessity of full compliance with the  
15 Black-Tailed Prairie Dog Management Act and rules and regulations  
16 adopted and promulgated pursuant to the act.

17 (b) General notice shall be published by the county board  
18 of each county that has adopted a coordinated program for the  
19 management of black-tailed prairie dogs under section 3 of this act  
20 in one or more newspapers of general circulation in the county on  
21 or before May 1 of each year or at such other times as the county  
22 board may determine.

23 (c) Whenever any county board of a county that has  
24 adopted a coordinated program for the management of black-tailed  
25 prairie dogs under section 3 of this act has reason to believe  
26 based upon information or through its own investigation that a  
27 colony, or any portion of a colony, has expanded onto adjacent

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 property and determines that it is necessary to secure more prompt  
2 or definite management of a colony than is accomplished by the  
3 general published notice, it shall cause to be served individual  
4 notice, upon the owner of record of the property upon which the  
5 colony is located at his or her last-known address, of recommended  
6 methods of when and how black-tailed prairie dogs are to be  
7 managed.

8 (d) The county board shall use one or both of the  
9 following forms for all individual notices:

10 (i) ..... County Board

11 OFFICIAL NOTICE

12 Information received by the county board indicates the  
13 existence of an unmanaged black-tailed prairie dog colony on  
14 property owned by you at:

15 .....

16 The method of management recommended by the county board is as  
17 follows:

18 ..... .

19 Other appropriate management methods are acceptable if approved by  
20 the county board.

21 State law specifies a duty of each person who owns or  
22 controls property within a county that has adopted a coordinated  
23 program for the management of black-tailed prairie dogs under  
24 section 3 of this act to manage black-tailed prairie dog colonies  
25 present upon his or her property to prevent the expansion of  
26 colonies to adjacent property. You must provide notice and  
27 evidence to the county board within sixty days after the date

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 specified at the bottom of this notice that appropriate management  
2 as specified in this notice, or alternative management that is  
3 approved by the board, has been initiated. If services for the  
4 management of black-tailed prairie dogs are not available within  
5 the sixty-day period specified in this notice, you may satisfy this  
6 notice by providing evidence that you have arranged for management  
7 to occur when available. If such notice and evidence are not  
8 received by the county board within sixty days after the date  
9 specified at the bottom of this notice, the county board or its  
10 agent may enter upon your property for the purpose of taking the  
11 appropriate management measures. Costs for the management  
12 activities performed by the county board shall be at the expense of  
13 the owner of the property and shall become a lien on the property  
14 as a special assessment levied on the date of control.

15 If the county board receives a written request from you  
16 within fifteen days after the date specified at the bottom of this  
17 notice, you are entitled to a hearing before the county board to  
18 challenge this notice.

19 County Board

Dated .....

20 (ii) ..... County Board

21 OFFICIAL NOTICE

22 Information received by the county board indicates the  
23 presence of an unmanaged black-tailed prairie dog colony on  
24 property owned by you at:

25 .....

26 The method of management recommended by the county board is as  
27 follows:

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 .....  
2 Other appropriate management methods are acceptable if approved by  
3 the county board.

4 State law specifies a duty of each person who owns or  
5 controls property within a county that has adopted a coordinated  
6 plan for the management of black-tailed prairie dogs under section  
7 3 of this act to manage black-tailed prairie dog colonies present  
8 upon his or her property to prevent the expansion of colonies to  
9 adjacent property. You must provide notice and evidence to the  
10 county board within sixty days after the date specified at the  
11 bottom of this notice that appropriate management as specified in  
12 this notice, or alternative management that is approved by the  
13 board, has been initiated. If services for the management of  
14 black-tailed prairie dogs are not available within the sixty-day  
15 period specified in this notice, you may satisfy this notice by  
16 providing evidence that you have arranged for management to occur  
17 when available. If such notice and evidence are not received by  
18 the county board within sixty days after the date specified at the  
19 bottom of this notice you may, upon conviction, be subject to a  
20 fine of \$100.00 per day for each day of noncompliance beginning on  
21 ....., up to a maximum of fifteen days of noncompliance (maximum  
22 \$1,500).

23 If the county board receives a written request from you  
24 within fifteen days after the date specified at the bottom of this  
25 notice, you are entitled to a hearing before the county board to  
26 challenge this notice.

27 County Board

Dated .....

1           (2) Upon the written request of any landowner served with  
2 an individual notice pursuant to subsection (1) of this section  
3 received within fifteen days after the date specified by such  
4 notice, the county board shall hold an informal public hearing to  
5 allow such landowner an opportunity to address the county board's  
6 notice.

7           (3) If a landowner who has received a notice pursuant to  
8 subsection (1) of this section fails to comply with the notice, the  
9 county board shall:

10           (a) If, upon expiration of the sixty-day period specified  
11 on the notice required by subdivision (1)(d)(i) of this section,  
12 the landowner has not complied with the notice and has not  
13 requested a hearing pursuant to subsection (2) of this section, the  
14 county board may cause proper management methods to be used on such  
15 property and shall advise the record landowner of the cost incurred  
16 in connection with such operation. The cost of any such management  
17 shall be at the expense of the landowner. In addition the county  
18 board shall immediately cause notice to be filed of possible unpaid  
19 black-tailed prairie dog management assessments against the  
20 property upon which the management measures were used in the  
21 register of deeds office in the county where the property is  
22 located. If unpaid for two months, the county board shall certify  
23 to the county treasurer the amount of such expense and such expense  
24 shall become a lien on the property upon which the management  
25 measures were taken as a special assessment levied on the date of  
26 management. The county treasurer shall add such expense to and it  
27 shall become and form a part of the taxes upon such land and shall

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 bear interest at the same rate as delinquent taxes; or

2 (b) If, upon the expiration of the sixty-day period  
3 specified on the notice required by subdivision (1)(d)(ii) of this  
4 section, the landowner has not complied with the notice and has not  
5 requested a hearing pursuant to subsection (2) of this section, the  
6 county board shall notify the county attorney who shall proceed  
7 against such landowner as prescribed in this subdivision. A person  
8 who is responsible for an unmanaged colony shall, upon conviction,  
9 be guilty of an infraction pursuant to sections 29-431 to 29-438,  
10 except that the penalty shall be a fine of one hundred dollars per  
11 day for each day of violation up to a total of one thousand five  
12 hundred dollars for fifteen days of noncompliance.

13 (3) This section shall not be construed to limit  
14 satisfaction of the obligation imposed by this section in whole or  
15 in part by tax foreclosure proceedings. The expense may be  
16 collected by suit instituted for that purpose as a debt due the  
17 county or by any other or additional remedy otherwise available.  
18 Amounts collected under this section shall be deposited to the  
19 black-tailed prairie dog management fund of the county board if  
20 such fund has been created by the county board or if no such fund  
21 has been created, then to the county general fund.

22 Sec. 7. If any person is dissatisfied with the amount of  
23 any costs or fines charged against him or her under the  
24 Black-Tailed Prairie Dog Management Act, he or she may, within  
25 fifteen days after being advised of the amount of the charge, file  
26 a written protest with the county board. The county board shall  
27 hold a hearing to determine whether the charges were appropriate,



AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 taking into consideration whether the management measures were  
2 conducted in a timely fashion. Following the hearing, the county  
3 board shall have the power to adjust or affirm such charge. If any  
4 person is dissatisfied with the decision of the county board or  
5 with charges made by the county board for management work  
6 performed, such person may appeal the decision, and the appeal  
7 shall be in accordance with the Administrative Procedure Act.

8           Sec. 8. A county board of a county that has adopted a  
9 coordinated plan for the management of black-tailed prairie dogs  
10 under section 3 of this act, or anyone authorized by the county  
11 board, may enter upon property in the county for purposes of  
12 performing the duties and exercising the powers under the act or  
13 rules and regulations adopted and promulgated under the act without  
14 being subject to any action for trespass or damages, including  
15 damages for destruction of growing crops, if reasonable care is  
16 exercised.

17           Sec. 9. The director (1) shall investigate the subject  
18 of black-tailed prairie dogs, (2) shall cooperate with agencies of  
19 federal and state governments and other persons in carrying out the  
20 Black-Tailed Prairie Dog Management Act, (3) may employ personnel  
21 necessary to carry out the director's duties and responsibilities  
22 under the act, and (4) shall perform such other acts as may be  
23 necessary or appropriate to the administration of the act.

24           Sec. 10. The director may convene an advisory committee  
25 to advise the director concerning his or her responsibilities under  
26 the Black-Tailed Prairie Dog Management Act. Representatives from  
27 state or federal agencies concerned with the management of

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 black-tailed prairie dog colonies, the Institute of Agriculture and  
2 Natural Resources of the University of Nebraska, county government,  
3 agriculture, environmental organizations, and others in the public  
4 and private sectors may serve on such committee at the request of  
5 the director. If an advisory committee is convened, members shall  
6 not receive any reimbursement for expenses.

7           Sec. 11. The director shall adopt and promulgate such  
8 rules and regulations as are necessary to guide county boards  
9 regarding (1) development of county black-tailed prairie dog  
10 management plans, (2) appropriate and effective methods of  
11 management of black-tailed prairie dog colonies, (3) issuance of  
12 general notices, and (4) procedures for requesting assistance from  
13 the Animal Damage Control Cash Fund under subsection (2) of section  
14 81-2,237.

15           Sec. 12. A black-tailed prairie dog management fund may  
16 be established by a county, which fund shall be available for  
17 expenses authorized to be paid from such fund, including necessary  
18 expenses of the county board in carrying out its duties and  
19 responsibilities under the Black-Tailed Prairie Dog Management Act.

20           Sec. 13. The cost of managing black-tailed prairie dog  
21 colonies on all land owned or controlled by a state department,  
22 agency, commission, or board or a political subdivision shall be  
23 paid by the state department, agency, commission, or board in  
24 control thereof or the political subdivision out of funds  
25 appropriated to the state department, agency, commission, or board  
26 or budgeted by the political subdivision for its use.

27           Sec. 14. Section 81-2,236, Reissue Revised Statutes of

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 Nebraska, is amended to read:

2               81-2,236.     The Director of Agriculture may contract and  
3 cooperate with the Animal and Plant Health Inspection Service of  
4 the United States Department of Agriculture in the management and  
5 control of (1) coyotes, bobcats, foxes, and other predatory animals  
6 listed in section 23-358 in this state that are injurious to  
7 livestock, poultry, and game animals and the public health, (2)  
8 black-tailed prairie dogs and other injurious commensal and field  
9 rodents, and (3) nuisance birds or other nuisance wildlife in  
10 accordance with organized and systematic plans of the Animal and  
11 Plant Health Inspection Service of the United States Department of  
12 Agriculture for the management and control of such animals.  
13 Supervision of the program shall be by the local representative of  
14 the Animal and Plant Health Inspection Service of the United States  
15 Department of Agriculture. Expenditure of funds appropriated by  
16 the Legislature may not be made without the approval in writing by  
17 the director. The director in cooperation with the Animal and  
18 Plant Health Inspection Service of the United States Department of  
19 Agriculture may enter into agreements with other governmental  
20 agencies and with counties, associations, corporations, or  
21 individuals when such cooperation is deemed to be necessary to  
22 promote the management and control of such predatory animals,  
23 black-tailed prairie dogs and other injurious commensal and field  
24 rodents, nuisance birds, or other nuisance wildlife.

25               Sec. 15.     Section 81-2,237, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27               81-2,237.   (1) There is hereby created the Animal Damage

AM0867  
LB 673  
NPN-03-18

AM0867  
LB 673  
NPN-03-18

1 Control Cash Fund. Such fund shall be administered by the  
2 Department of Agriculture. The fund shall consist of funds  
3 received from any source to carry out the animal damage control  
4 program pursuant to section 81-2,236. Any money in the fund  
5 available for investment shall be invested by the state investment  
6 officer pursuant to the Nebraska Capital Expansion Act and the  
7 Nebraska State Funds Investment Act.

8 (2) It is the intent of the Legislature to appropriate  
9 one hundred thousand dollars to the fund for each of FY2005-06 and  
10 FY2006-07 which shall be available for cooperative agreements  
11 entered into under section 81-2,236. Any cooperative agreement may  
12 provide for expending a portion or all of the funds to make  
13 resources and services available to address specific animal damage.  
14 To the extent that funds are available in the fund, the department  
15 may expend up to twenty-five thousand dollars from the fund for  
16 each of FY2005-06 and FY2006-07 as aid to counties that (a) have  
17 adopted a coordinated program for the management of black-tailed  
18 prairie dogs under section 3 of this act and (b) request funding  
19 pursuant to procedures provided in rules and regulations adopted  
20 and promulgated by the director.

21 Sec. 16. Original sections 81-2,236 and 81-2,237,  
22 Reissue Revised Statutes of Nebraska, are repealed.".